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EXAMINER

ZISKA, S

ART UNIT

PAPER NUMBER

1804

5

1804

DATE MAILED:

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18M2/0531

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

☐ This application has been examined ☐ Responsive to communication filed on \_\_\_\_\_ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire zero (0) month(s), thirty (30) days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

**Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

- ☐ Notice of References Cited by Examiner, PTO-892.
- ☐ Notice of Draftsman's Patent Drawing Review, PTO-948.
- ☐ Notice of Art Cited by Applicant, PTO-1449.
- ☐ Notice of Informal Patent Application, PTO-152.
- ☐ Information on How to Effect Drawing Changes, PTO-1474.
- ☐

**Part II SUMMARY OF ACTION**

- ☒ Claims 1-43 are pending in the application.  
Of the above, claims \_\_\_\_\_ are withdrawn from consideration.
- ☐ Claims \_\_\_\_\_ have been cancelled.
- ☐ Claims \_\_\_\_\_ are allowed.
- ☐ Claims \_\_\_\_\_ are rejected.
- ☐ Claims \_\_\_\_\_ are objected to.
- ☒ Claims 1-43 are subject to restriction or election requirement.
- ☐ This application has been filed with Informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
- ☐ Formal drawings are required in response to this Office action.
- ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
- ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
- ☐ The proposed drawing correction, filed \_\_\_\_\_, has been ☐ approved; ☐ disapproved (see explanation).
- ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.
- ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
- ☐ Other

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1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I. Claims 1-7 and 23-31, drawn to a method for the in situ proliferation of a CNS precursor cell located in the tissue lining a CANS ventricle of a mammal, comprising administering at least one growth factor, and a method of treating a neurological disorder, classified in Class 514, subclass 2, for example.

Group II. Claims 8-15 and 35-43, drawn to a method for the in situ modification of a CNS precursor cell, and a method of treating a neurological disorder, said method comprising administering genetic material, classified in Class 514, subclass 44, for example.

Group III. Claims 16-22, drawn to a method of in vitro proliferation of precursor cells comprising removing primary cells and culturing primary cells, classified in Class 435, subclass 240.21, for example.

Group IV. Claims 23 and 32-34, drawn to a method of treating a neurological disorder comprising administering at least one growth factor, said method further comprising removing said tissue, culturing said tissue in a medium comprising a second growth factor, genetically modifying said proliferated precursor cells and implanting said genetically modified cells into said donor, classified in Class 424, subclass 93.21, for example.

The inventions are distinct, each from the other because of the following reasons:

Groups I and II are independent and distinct because the method of obtaining proliferation of the CANS precursor cells involves proteins and DNA, which are different materials having different structures, properties and mechanisms of action.

Groups I and III are independent and distinct since Group III recites in vitro proliferation while Group I recites in vivo

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proliferation. A search of in vivo proliferation methods would not encompass a search of in vitro methods.

Group IV is independent and distinct from any of Groups I, III or III since Group IV requires method steps not required by any of the other groups such as reimplantation of the genetically engineered cells and the culture methods used for transplants may differ from cells multiplied in vitro for in vitro experimental purposes, for example.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art in view of the different classification, recognized divergent subject matter and separate search requirements, restriction for examination purposes as indicated is proper.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

Papers related to this application may be submitted to Group 1800 by facsimile transmission. Papers should be faxed to Group 1800 via the PTO FAX center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG (30 November 15, 1989). The CM1 Fax Center number is (703) 308-4227.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Suzanne Ziska, Ph.D., whose telephone number is (703)308-1217. In the event the examiner is not available, the examiner's

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supervisor, Ms. Jacqueline Stone, may contacted at phone number  
(703) 308-3153.

  
SUZANNE E. ZISKA  
PRIMARY EXAMINER  
GROUP 1800